

PART 5323—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

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SUBPART 5323.3—HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA

5323.302 General.

(b) Requiring activities shall identify to contracting activities:

(1) All commodities listed in Table I of Federal Standard 313;

(2) Those items listed in Table II of Federal Standard 313 having hazardous characteristics; or

(3) Any hazardous item in any other Federal Supply Class. Contact medical service bioenvironmental engineering personnel with questions regarding whether an item is hazardous.

(c) When Material Data Safety Sheet (MSDS) data has been submitted for a particular commodity identified by a National Stock Number and no changes affecting the characteristics and composition have been made, a new MSDS is not required. However, either a copy of the original submission or contract number and date of previous submission is required.

SUBPART 5323.890—ELIMINATION OF CLASS I OZONE DEPLETING SUBSTANCES (ODS)

5323.890-1 Scope of subpart.

This part prescribes Air Force policies and procedures for eliminating the use of Class I Ozone Depleting Substances in all Air Force procurements.

5323.890-2 Definitions.

“Completed ODS Evaluation” occurs when the requiring activity either:

(a) Issues a statement that the Government does not require ODS (see 5323.890-6 (a));

(b) Identifies a suitable substitute for the ODS and initiates action to implement the substitute; or

(c) Receives the required ODS waiver approval in accordance with Air Force ODS waiver approval policy.

“Ozone Depleting Substance (ODS)” means a substance identified as having a detrimental effect on the Earth’s ozone layer. The terms Ozone Depleting Substance (ODS), Ozone Depleting Chemical (ODC), and Ozone Layer Depleting Substance (OLDS) are synonymous. Ozone Depleting Substances are Class I substances included in the Clean Air Act Amendments of 1990 and other substances identified by the Air Force. The substances covered by this policy include:

(a) Halons: 1011, 1202, 1211, 1301 and 2402;

(b) Chlorofluorocarbons (CFCs): CFC-11, CFC-12, CFC-13, CFC-111, CFC-112, CFC-113, CFC-114, CFC-115, CFC-211, CFC-212, CFC-213, CFC-214, CFC-215, CFC-216, and CFC-217, and the blends R-500, R-501, R-502, and R-503; and

(c) Other Controlled Substances: Carbon Tetrachloride, Methyl Chloroform, and Methyl Bromide.

“Suitable Substitute” means an alternative to ODS use that is determined to be technically, economically, and legally feasible through elimination, process modification, or material substitution.

“Trigger Contract Modification” means a contract modification that causes the initial review of ODS requirements on a contract that was awarded before 01 Jun 1993 when:

(a) The contract’s value was greater than \$10 million on 01 Jun 1993; and

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(b) As a result of the modification, the contract will expire more than one year after the effective date of the modification.

5323.890-3 Air Force policy.

(a) It is Air Force policy to preserve mission readiness while minimizing dependency on Class I Ozone Depleting Substances (ODS) and their release into the environment, to help protect the Earth's stratospheric ozone layer. This policy applies to:

- (1) Contracts, purchase orders, leases, delivery orders, and local, decentralized purchasing authorities (including IMPAC cards, SF 44s, and imprest funds);
- (2) Foreign Military Sales (FMS) contracts;
- (3) Air Force requirements procured through other agencies under authorities such as the Economy Act (31 U.S.C. 1535); and
- (4) Purchases made by Air Force contracting organizations on behalf of other agencies.

(b) Contracts awarded on or after 01 Jun 1993, and certain contracts awarded prior to 01 Jun 1993 but modified on or after 01 Jun 1993 (see DFARS 211.271), may not include any specification, standard, drawing, or other document that:

- (1) Requires the use of a Class I ODS in the design, manufacture, test, operation, or maintenance of any system, subsystem, item, component, or process; or
- (2) Establishes a requirement that can only be met by the use of a Class I ODS.

(c) Contract modifications of a solely administrative nature or for funding actions do not require a statement that the Government does not require ODS (see 5323.890-6 (a)) or a waiver approval. The following applies to all other contract modifications:

(1) Modifications to contracts awarded on or after 01 Jun 1993 shall be evaluated to determine if the modification adds new work, a new ODS, or new ODS applications not previously reviewed and approved. The modification will not be issued until the requiring activity issues either a statement that the Government does not require ODS (see 5323.890-6 (a)) or obtains a waiver approval for the ODS requirements above the previously evaluated baseline.

(2) Contracts awarded before 01 Jun 1993, that become subject to the statutory ODS restrictions (see DFARS 211.271) as a result of the instant contract modification, shall be evaluated to determine if the contract, as modified, requires the use of an ODS or is written so that it can only be met by the use of an ODS. The instant contract modification is issued and becomes the "trigger contract modification." No further contract modifications may be made to the contract until the ODS evaluation is complete; and

(3) Modifications to contracts awarded before 01 Jun 1993, that are covered by the statutory ODS restrictions (see DFARS 211.271) as a result of a previous trigger contract modification, shall be evaluated to determine if the instant modification adds new work, new ODS, or new ODS applications not previously reviewed and approved. The contract modification will not be issued until the requiring activity either issues a statement that the Government does not require ODS (see 5323.890-6 (a)), or obtains a waiver approval for the ODS requirements above the previously evaluated baseline.

(d) When ODS is not required in a procurement, the requiring activity must furnish a written statement to the contracting officer that the Air Force does not require the contractor to use Class I ODS in the performance of the contract (see 5323.890-6 (a)). The content of the written statement will be in accordance with Air Force waiver approval procedures. A copy of the written statement will be maintained in the contract file.

(e) When the Government requires the use of ODS or has written the requirement so that it can only be met by the use of an ODS, waiver approvals shall be obtained by the requiring activity in accordance with Air Force waiver approval procedures. A copy of the waiver approval document will be maintained in the contract file.

5323.890-4 Air Force responsibilities.

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(a) Contracting officers shall ensure that the contract file for each contract awarded on or after 01 Jun 1993, and certain contracts awarded before 01 Jun 1993 but subsequently modified (see DFARS 211.271), contains either:

- (1) A statement from the requiring activity that the Government does not require ODS (see 5323.890-6 (a)); or
- (2) An approved waiver request document. This requirement does not apply to contract modifications of a solely administrative nature or for funding actions.

(b) Requiring activities are responsible for preparing, processing, and providing the statements and approval documents discussed above, to the contracting officer.

(c) Prior to contract award, if an offeror notifies the contracting officer (in accordance with the clause at 5352.223-9000, Elimination of Use of Class I Ozone Depleting Substances (ODS), paragraph (e), that a Class I ODS is required in the performance of the proposed contract, but has not been approved for inclusion in the contract, the contracting officer shall immediately inform the requiring activity. The requiring activity, with the support of the contracting officer shall, prior to contract award, take immediate action to either:

- (1) Remove the ODS requirement from the solicitation;
- (2) Determine that a suitable substitute exists and modify the solicitation accordingly; or
- (3) Obtain a waiver approval to include the requirement for the ODS in the solicitation.

(d) After contract award, if a contractor notifies the contracting officer (in accordance with the clause at 5352.223-9000 (e)) that a Class I ODS has been required in the performance of the contract, but has not been approved for inclusion in the contract, the contracting officer shall immediately inform the requiring activity.

(1) If the contract has previously been reviewed for ODS content, the requiring activity, with the support of the contracting officer, shall take immediate action to either:

- (i) Remove the ODS requirement from the contract;
- (ii) Determine that a suitable substitute exists and modify the contract accordingly; or
- (iii) Obtain a waiver approval to include the requirement for the ODS in the contract. Contract performance may continue while the requiring activity and contracting officer take necessary action described above.

(2) If the contract has not previously been reviewed for ODS content and is not covered by the statutory restrictions on ODS, the requiring activity, with the support of the contracting officer, may take action to evaluate the requirement and either:

- (i) Remove the ODS requirement from the contract; or
- (ii) Determine that a suitable substitute exists and modify the contract accordingly.

5323.890-5 Selecting commercial specifications or descriptions for Air Force use.

(a) Commercial items as defined in FAR 2.101 may be purchased without approved waivers, or statements that the Government does not require ODS (see 5323.890-6 (a)). Before the Government may add specifications or other restrictions on commercial products or items, that mandate the use of ODS, the requiring activity must obtain an approved waiver and provide a copy to the contracting officer.

(b) For purchases using commercial part numbers or manufacturers' part numbers, when the Government does not control configuration, specifications, standards, drawings, or other documents, neither an approved waiver nor a statement that the Government does not require ODS (see 5323.890-6 (a)) are necessary.

(c) When the Government controls configuration, specifications, standards, drawings, or other documents that include the use of ODS on commercial parts, the requiring activity must obtain an approved waiver to purchase the parts.

(d) The following are exceptions to the guidance in (a) and (b) above:

- (1) Purchases of Class I ODS in bulk (any quantity or type) require an approved waiver; and

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(2) The purchase of facility air conditioning systems, aerospace ground equipment, commercial vehicles, and other refrigeration and support equipment that use ODS as a refrigerant/coolant is prohibited.

5323.890-6 Management of Air Force purchase descriptions.

(a) The statement that the Government does not require ODS shall read as follows:

“I have reviewed the requirement, including available technical documentation, and believe that it does not require the contractor to use Class I ozone depleting substances (ODS) identified in Air Force Policy, nor is it written so that it can only be met by the use of a Class I ODS.”

(b) The above statement may be documented in a variety of ways, such as being included in the item description of electronic Base Contracting Automated System requirement documents. Another example is the statement may be stamped on a Air Force Form 9, Purchase Request. It may also be included in a listing of National Stock Numbers (NSNs) or stock classes reviewed on a one-time basis, agreed between base supply activities and the local contracting office. Future purchases of these NSNs or in these stock classes would not require an individual statement.

5323.890-7 Contract clauses.

(a) If the nature of a requirement is such that the use of an ODS is certain or possible, the contracting officer shall include the clause at 5352.223-9000, Elimination of Use of Class I Ozone Depleting Substances (ODS), in solicitations and contracts to advise the contractor of Air Force policy and the requirement to notify the Government if any ODS requirements have been overlooked.

(b) When the use of a Class I ODS has been approved, the contracting officer shall list the ODS substances, their applications/uses, and quantities in the clause at 5352.223-9000, Elimination of Use of Class I Ozone Depleting Substances (ODS).

(c) When a contract allows for decentralized ordering by multiple ordering activities, the contracting officer shall include the clause at 5352.223-9000, Elimination of Use of Class I Ozone Depleting Substances (ODS), in the basic solicitation and the basic contract, whether or not ODS requirements are part of the procurement. If no ODS is required, “None” shall be entered in the clause. This clause shall serve as notice to all potential ordering activities that an ODS review has been completed. Orders against a contract that contains the clause with “None” entered, may be placed without additional ODS reviews or the need for a statement from the requiring activity that “the Government does not require ODS.”

SUBPART 5323.90—SAFETY AND ACCIDENT PREVENTION ON GOVERNMENT INSTALLATIONS**5323.9001 General.**

(a) It is Air Force policy to provide its employees a safe and healthful working environment in which recognized hazards have been eliminated or controlled.

(b) If the purchase request incorporates a performance work statement requiring performance in Government facilities, and those facilities have known health, safety, or environmental conditions that could affect performance under the contract, the solicitation and resulting contract shall inform the bidders/contractor what they are and that they will be corrected in accordance with established base-wide priorities. When such conditions exist for which the Government has established procedural workarounds to offset the potential hazards, the existence of these or similar workarounds shall be identified to the offerors. It should be made clear, however, that by identifying any known conditions, the Air Force does not warrant or guarantee that no other possible hazards exist, or that the workaround procedures currently employed will be adequate to meet the responsibilities of the contractor. Offerors shall also be expressly advised that compliance with the Occupational Safety and Health Act, Air Force Occupational Safety and Health Standards developed according to AFI 91-301, and other applicable laws and regulations for the protection of employees is exclusively the obligation of the contractor, and that the Government shall assume no liability or responsibility for the contractor’s compliance or noncompliance with such requirements.

5323.9002 Contract clause.

AIR FORCE FAR SUPPLEMENT

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The contracting officer shall insert the clause at 5352.223-9001, Safety and Accident Prevention, in solicitations and contracts, other than for construction, which require performance on a Government installation, other than installations under the contractor's sole control.